INJURY TO EMPLOYEE—"RES IPSA LOQUITUR"—NEGLIGENCE.—1. Many accidents are mere casualties, for which no one is to blame. Others may have been caused by strangers, trespassers, by a fellow servant, by the defendant, or by the defendant and the plaintiff jointly. In this class of cases there is no presumption of negligence, and, even if negligence appear, there is no presumption as to who was guilty thereof.

2. There are cases where, in the absence of proof of any external cause, and the accident is of a kind which does not ordinarily occur without negligence, a jury may infer the want of due care from the mere happening of the occurrence. *Prima facie*, such negligence will be attributed to the person charged by law with the duty of maintaining and managing the thing causing the injury.

3. Where no explanation is given as to the cause of the fall of a brick arch, the maxim, *Res ipsa loquitur*, applies; and the jury may infer that there was negligence on the part of the owner, either in its original construction, or in its subsequent maintenance. *Chenall* v. *Palmer Brick Co.* (Ga.), 43 S. E. 443.

Per Lamar, J:

"It is rather remarkable that, out of the multitude of personal injury cases decided by this court, in no one of them has the maxim, *Res ipsa loquitur*, been directly invoked. *Yonge* v. *Kinney*, 28 Ga. 111. It is, however, so well founded in reason, and so sustained by authority, that it is not necessary to make any elaborate citation of authorities. The most apt and concise statement of the principle is found in the leading case, *Scott* v. *London & St. Katherine Docks Co.*, 3 Hurl. & C. 596, where the plaintiff was injured by the fall of bags of sugar being lowered from defendant's warehouse, and the court held, 'There must be reasonable evidence of negligence, but where the thing is shown to be under the management of the defendant or his servants, and the accident is such as, in the ordinary course of things, does not happen if those who have the management use proper care, it affords reasonable evidence, in the absence of explanation by defendant, that the accident arose from want of care.' A case somewhat more directly in point is that of *Waterhouse* v. *Brewing Company* (S. D.), 81 N. W. 725, 48 L. R. A. 157, 159, where the building had stood for ten years, and the defendant insisted that that fact contradicted the charge that the building was negligently constructed. The court, however, said 'From the fact that the building fell of its own weight, without any external violence, a fair presumption would be that the fall occurred through adequate causes, one of the most natural of which would be the negligent and faulty construction of the building itself.'"

To the same effect are *Morris* v. *Strobel &c. Co.*, 81 Hun, 1; *Dohn* v. *Dawson*, 84 Hun, 110; *Mulcairns* v. *City of Janesville*, 67 Wis. 24; *Peer* v. *Ryan*, 54 Mich, 224; *Cleveland &c. R. Co.* v. *Walrath*, 6 Ohio Dec. 718; *Dixon* v. *Pluns*, 98 Cal. 334, 35 Am. St. R. 180, 20 L. R. A. 198.

See further, on the subject of the doctrine of *res ipsa loquitur*, *ante* p. 342.

CONTEMPT—NEWSPAPERS—PUBLICATION OF EVIDENCE.—Under the Bill of Rights of the State of Texas, guaranteeing freedom of speech and the liberty of the press, the court cannot prohibit the publication of the evidence, where it is